

CR15-00707-PHX-SRB OPENING STATEMENTS 2-17-16

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

United States of America,)
)
 Plaintiff,)
) CR15-00707-PHX-SRB
 vs.) Phoenix, Arizona
) February 17, 2016
 Abdul Malik Abdul Kareem,)
)
 Defendant.)
)
)
)

BEFORE: THE HONORABLE SUSAN R. BOLTON, JUDGE
EXCERPT OF REPORTER'S TRANSCRIPT OF PROCEEDINGS
JURY TRIAL - DAY #2
OPENING STATEMENTS

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E X C E R P T O F P R O C E E D I N G S

THE COURT: The government may make its opening statement.

MS. BROOK: Thank you, Your Honor.

Three men right here in Arizona set out to commit mass murder, an unimaginable Armageddon-like shootout in Texas.

Of the three, only one is here in the courtroom today. Only one is here, because the other two died in Texas. The defendant remains. He is here because of the role he played in the attack.

The defendant, along with his co-conspirators, shared a mission, a desire to kill disbelieving Americans. The defendant's role in this three-man team was that he was the bank roller. He was the trainer. He was the motivator. And in that, he was the man who stayed behind in the hopes that his role in this team would not come to light.

But the path of evidence that the defendant left behind betrayed his plan to hide his role. So on a Sunday evening in May, on May 3rd, as the defendant and his co-conspirators had planned, his co-conspirators drove into the parking lot of the Curtis Culwell Center in Garland, Texas.

They were dressed in black, armed in body armor as they had planned, and on that Sunday evening, nearly 200

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1 people were in attendance inside that stadium. It was an
2 indoor facility, and as had been advertised for months below,
3 during that point in time, between 5:00 and 7:00 in the
4 evening, they were hosting an event known as the Draw The
5 Prophet Muhammad Contest, an event that drew nearly 200 people
6 who had purchased tickets to be there. People were there
7 looking at cartoons, caricatures that had been drawn of the
8 Prophet Muhammad.

9 And as the defendant and his co-conspirators had
10 planned, just as the event was coming to a close shortly
11 before 7:00, the co-conspirators drove into the parking lot
12 outside of the facility. They wore body armor. They stopped
13 their car and the co-conspirators each got out. With them
14 they had six weapons, semi-assault weapons, as well as rifles
15 and pistols, and over 1500 rounds of ammunition.

16 The defendant's co-conspirators, the driver and the
17 passenger, got out of the car, guns blazing, firing.

18 What they didn't count on was the heroic action of
19 law enforcement who were able to stave off the event and stop
20 the attackers.

21 So why is it that these three men attempted to kill
22 hundreds of Americans?

23 Ladies and gentlemen, in this case you are going to
24 learn more than you ever thought you would about the Islamic
25 State, about ISIS, also known as ISIL, and you're going to

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1 hear experts talk about it in a broad array of detail.

2 The defendant is charged not only with participating
3 in the attack there in Garland, but he is also charged with
4 separately providing material support to the Islamic State, to
5 ISIS.

6 I will talk in a little bit about how ISIS infuses
7 this case and about how that terrorist organization has a
8 broad, strategic agenda to inspire and recruit homegrown
9 terrorists.

10 This afternoon I want to talk to you about four
11 separate things. We're going to talk about what happened.
12 We're going to talk about why it happened. We're going to
13 talk about the evidence. And we're going to talk about the
14 crimes.

15 But before we get into each of those four areas, I
16 want to take a moment and talk to you about the defendant and
17 his co-conspirators.

18 The defendant, Decarus Thomas, the name he was born
19 with and the name that he went by back in 2012, the defendant
20 and his two co-conspirators Nadir Soofi and Elton Simpson have
21 known each other for a few years.

22 You will hear evidence in this case that back in
23 2012, the defendant, who then still was known as Decarus
24 Thomas, lived in an apartment along with Elton Simpson.

25 You'll hear in this case that Elton Simpson also went by the

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1 name Ibrahim.

2 The two of them lived in an apartment here in Phoenix
3 and they lived there alongside a third man. In the summer of
4 2012, the police executed a search warrant at their apartment.
5 And when they did, they seized the defendant's laptop. It's a
6 Lenovo laptop. And in it stuck a 2 gigabyte thumb drive.
7 They seized it. After the search warrant they returned it.

8 And after the attack in Garland, the police, through
9 another search warrant, searched the computer and the hard
10 drive. You are going to hear that what they found on it was
11 violent jihadi material, propaganda, material about violence.

12 Shortly after the search warrant was executed back in
13 the summer of 2012, the defendant moved out. He moved out and
14 he moved away from Simpson. He was suspicious that the FBI
15 was watching him. He was suspicious that the FBI was tracking
16 him. And he was worried that he was being followed. You will
17 hear that even for a time he cut off his contact with Elton
18 Simpson. But as time moved on and the months carried forward,
19 the defendant and Simpson started to spend time together
20 again.

21 In the summer of 2012, two summers later, Elton
22 Simpson now lives in an apartment with Nadir Soofi. The two
23 of them live in an one-bedroom apartment. It's a one-bedroom
24 apartment that has adjacent to it a small living room with a
25 kitchen. In the bedroom Nadir Soofi lives. In the living

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1 room on a L-shaped couch, that's where Elton Simpson lives and
2 sleeps.

3 You're going to hear that for 13 months the two men
4 lived there with Ali Soofi. Ali is Nadir's younger brother.
5 He's going to testify in this case. He lived there with the
6 defendant. He lived there with Simpson and with his older
7 brother Nadir.

8 For 13 months, up until four weeks before the attack,
9 he slept on the other side of the L-shaped couch; Simpson
10 sleeping on one side, he sleeping on the other side. And he
11 watched. He watched as over that period of time Simpson, his
12 brother Nadir, and the defendant became increasingly violent
13 and jihadist.

14 He watched the defendant because the defendant was
15 there too. Over time he was there often. He spent a lot of
16 time with Simpson and Soofi. Often he even slept over.

17 And when the defendant would sleep over at the
18 apartment, he would sleep on the side of the couch that
19 Simpson would sleep and Simpson would sleep on the floor.
20 During this time Ali will testify that the three men were
21 soaking in ISIS propaganda. They were watching beheading
22 videos and they were watching those videos on a TV screen that
23 was right there feet away from the couch in the living room.

24 That TV screen was hooked up to a computer and
25 everyone sitting in the living room could see what was on it;

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1 ISIS propaganda, beheading videos played loud.

2 You'll also hear that during this time Nadir and
3 Simpson tried to convert Ali to be Muslim.

4 They pushed and they tried, but Ali wasn't budging.
5 So they did become a little more guarded around him as he was
6 not buying into their belief system. Ali was struggling at
7 the time because Ali and Nadir worked together. The two
8 brothers owned together a carpet cleaning business and they
9 weren't making money. They weren't making money to pay rent.
10 They weren't making money to buy food.

11 As the months progressed towards the fall of 2014,
12 the Islamic State through a video, a video that was done by
13 one of the key spokespeople for the Islamic State, they
14 released in September a proclamation which said that they were
15 calling for foreign actors to attack in support of ISIL.

16 The proclamation said:

17 "The best thing you can do is to strive to do your
18 best and kill any disbeliever, whether he be French, American
19 or from any of their allies. Kill the disbeliever whether he
20 be civilian or military. Attack their bases. Do not let them
21 feel secure. Hunt them wherever they may be."

22 This proclamation went out in September.

23 Folks, you're going to hear a lot about the attack in
24 Garland in May. And I want to focus in first on the five to
25 six months before that attack happened.

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1 You're going to hear evidence in this case that in
2 November, Simpson forwarded an e-mail to the defendant where
3 he conveyed the fact that in order for him to travel abroad,
4 he had to notify his probation officer. In other words the
5 government had to know that he was seeking permission to
6 travel out of state.

7 A month later in late December you'll hear evidence
8 in this case that the defendant was standing in a parking lot
9 late at night purchasing a gun. And that when he did so, he
10 peeled off \$300, handed it to the man that was selling him the
11 gun, and with a wad of cash still in his hand, looked at him
12 and said, "I'm looking for more guns. Let me know if you have
13 some."

14 Days later on New Year's Eve you're going to hear
15 evidence that the defendant was asking a friend, an employee
16 of his if he could get him pipe bombs.

17 And then days after that on January 7th of last year,
18 the Charlie Hebdo attack happened in Paris. Charlie Hebdo is
19 a magazine that was -- that is in Paris. And the magazine had
20 put forward on its cover a caricature, a drawing of the
21 Prophet Muhammad.

22 You will hear that on January 7th, armed jihadi,
23 violent perpetrators broke into the Charlie Hebdo Magazine and
24 they killed 11 of the employees.

25 Media news releases of what had happened and the

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1 footage were all over the television. You're going to hear
2 evidence in this case that witnesses saw the defendant
3 cheering, watching footage about those people being killed by
4 these violent jihadists in Paris. You're going to hear
5 witnesses testify that he said, "Those are my people" as he
6 cheered.

7 Throughout this month you will also hear that the
8 defendant was attempting to buy silencers, bulletproof vests,
9 and then more guns. You will hear testimony that the
10 defendant purchased an Elk River rifle that he gave to Nadir.

11 Ali -- they weren't making money. They were inside
12 their house and Nadir and the defendant come in. Nadir has
13 this Elk River rifle. And Ali looks at him and says, "What
14 are you doing?" to which the defendant said, "I bought that
15 for him." And Ali looked and Nadir said, "Maybe in time I
16 will be able to pay him back."

17 You're going to hear about another weapon, another
18 assault rifle that the defendant purchased for Simpson months
19 before, a snubnose AK.

20 You're also going to hear from another witness,
21 another friend of the defendant's. The defendant towards the
22 middle of January reached out to a friend of his, a man by the
23 name of Sergio Martinez-Chavez, and said to him, "I need you
24 to take me shooting." Him in particular because Sergio knew
25 of remote places in the desert where he could go and shoot

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1 without being detected.

2 Sergio was busy. He put him off for a little bit.
3 The defendant kept asking. And Sergio said, okay, I'll take
4 you. When they went, the defendant showed up, not just
5 himself, but with Simpson and Soofi. He drove them out to the
6 desert where they fired semi-assault rifles.

7 You will hear that Simpson and Soofi weren't just
8 standing and firing but they were running and firing these
9 rifles at the same time and the defendant stood there
10 laughing.

11 At the defendant's house on Cochise Road you're going
12 to hear from witnesses, friends of the defendant who spent
13 time there, including two children, Juan and Carlos, 11 and 12
14 years old. They lived across the street and they were friends
15 with the defendant. They spent a considerable amount of time
16 with the defendant towards the middle to the end of 2014 and
17 through the first couple of months of 2015.

18 The defendant indoctrinated them into his form of
19 Islam. He bought them presents; a Play Station, a watch, a
20 phone, toys, he took them out to dinner. He told them that in
21 order to be his friend they had to be Muslim. And he also
22 told him that people that don't believe what he believes about
23 Islam are called "kafirs" and that he wanted to kill kafirs.

24 As January turned to February, the Super Bowl was set
25 to -- and did occur here in Glendale, Arizona, on February

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1 1st. You're going to hear testimony that the group originally
2 contemplated attacking the Super Bowl and the Westgate Mall, a
3 mall that was adjacent to the Super Bowl facility, a place
4 nearby where thousands of spectators from the Super Bowl would
5 spend time and did spend time.

6 The defendant tried to obtain explosives and
7 ultimately was unable to and so the group shifted their focus
8 to a different attack.

9 Ladies and gentlemen, you're going to hear evidence
10 in this case that on February 3rd the Islamic State released a
11 video, a 26-year-old F-16 pilot, Jordanian pilot, crash landed
12 in Syria. He was captured by the Islamic State and he was
13 killed. Burned to death.

14 The video was released by the Islamic State's
15 propaganda machine and it was aired here in the United States.
16 You're going to hear evidence that the defendant, early in the
17 morning, as that footage of the man being burned was aired,
18 woke up Carlos. Enthusiastically, he wanted to show him the
19 video of this man being burned alive.

20 On February 11th the Draw The Prophet Muhammad
21 Cartoon Contest was announced. It was announced both on
22 Facebook as well as on different parts of the Internet.
23 You'll see evidence in this case that two days later, on
24 February 13th, Simpson tweeted, sent out a message on his
25 Twitter account, about the contest happening.

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1 You're going to hear evidence in this case about the
2 defendant sitting in his house and being with his
3 co-conspirators discussing their plans to attack the Draw The
4 Prophet Muhammad Contest.

5 As February turned to March, the defendant, along
6 with his co-conspirators, continued to discuss attacking and
7 killing people at the Draw The Prophet Muhammad Contest. The
8 defendant and his co-conspirators continued to watch these
9 ISIS propaganda videos, the beheading videos.

10 And during this month the defendant taught his
11 co-conspirators Simpson and Soofi how to work with their
12 weapons, the Elk River rifle, that AK snubnose. The defendant
13 taught both of them how to disassemble the rifles. How to
14 clean them. How to lubricate them. And then how to
15 reassemble them.

16 Ali will testify about how he watched the defendant
17 at their glass table, the little plexiglas table in their
18 living room, teach the two men how to take care of their
19 weapons.

20 You will also hear witnesses testify about the
21 defendant talking about wanting to sell his possessions and
22 move overseas to fight.

23 March turned to April. Over these four months,
24 January, February, March, and April, the defendant and his
25 co-conspirator Simpson talked frequently. Over those four

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1 months they had 380 contacts over their phones, so in the form
2 of phone calls or text messages.

3 In this case you're not just going to see violent
4 ISIS propaganda videos on the co-conspirators' computers and
5 on their phones. You're also going to see it on the
6 defendant's computer, his Acer computer.

7 On or before April 21st, downloaded onto that
8 computer, was a video called Flames of War. It was played.
9 It's a 55-minute video that is an important recruitment video
10 for the organization. It was set out in September. And it
11 portrays the Islamic State's version of history. It also
12 glorifies these jihadist videos or these jihadist fighters and
13 it glorifies their fight and killing disbelievers. It's in
14 English.

15 And in this video it shows the murder of six
16 different victims who it films them digging their graves and
17 then at the end, shows their lifeless body in the grave that
18 they had dug.

19 A person -- an English voiceover, in essence, tells
20 America that they are next.

21 On April 23rd, two days later, Simpson tweeted out
22 about the Draw the Prophet Muhammad Contest. In particular,
23 he tweeted because there were so many submissions, drawings
24 for the contest, that the contest had announced that they were
25 going to have more prizes. And he tweeted out, "Will they

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1 ever learn?"

2 You're going to hear that when the defendant spoke to
3 the FBI he lied and he said that he wasn't in contact with
4 Simpson before the attack.

5 You will hear testimony in this case the Thursday
6 night, just days before the attack, that the defendant was
7 seen in a restaurant picking up food to go with Simpson.
8 You'll also hear evidence of them at the mosque together the
9 next day.

10 Ladies and gentlemen, you're going to hear evidence
11 in this case from experts. You're going to hear evidence in
12 this case from civilian witnesses; children, friends and
13 family of the defendant, and his co-conspirators. Some of
14 these witnesses have checkered backgrounds and some do not.
15 Some of these witnesses are in custody right now on unrelated
16 charges. And when they sit here before you, they will be in
17 stripes. You will take all of that into account at the end of
18 this case.

19 You're also going to see hard evidence in this case.
20 You're going to see the defendant's own hard drive. We have
21 talked about the computer, the Lenovo computer from 2012, and
22 also the thumb drive that was sticking into it.

23 You will see that there are violent jihadi videos and
24 propaganda material in three separate places; so the computer
25 from 2012, the thumb drive sticking into it, and the

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1 defendant's Acer computer from 2015.

2 On that computer from 2012 and the thumb drive you
3 are going to hear evidence of a course that was on it. A .pdf
4 document about a course that teaches individuals how to act
5 securely on the Internet in order to evade police detection.
6 You're also going to hear information about articles about
7 killing civilians and how to target mass groups of civilians
8 in order to inflict the greatest amount of damage. You are
9 also going to see the Acer and you're going to see the Flames
10 of War video.

11 Ladies and gentlemen, in this case the defendant and
12 his co-conspirators obsessed over a now-dead Muslim cleric by
13 the name of Anwar al-Awlaki. In this case you will probably
14 hear more than you probably thought you would about Anwar
15 al-Awlaki. He is a man whose sermons preached and prayed that
16 Allah would destroy the United States.

17 The evidence in this case is going to show that the
18 defendant and his co-conspirators were obsessed with Anwar
19 al-Awlaki and they were focused by his political agenda; the
20 overthrow of the United States government and encouraging
21 martyrs to commit jihad and kill Americans.

22 That, there, is Anwar al-Awlaki. And you are going
23 to see evidence of Anwar al-Awlaki on the defendant's laptop.
24 You're are going to see it on Soofi's phone, a phone that he
25 picked up on the drive from Phoenix to Texas to conduct the

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1 attack, the 65-page sermon he downloaded. You are also going
2 to see it on a list of scholars that Simpson left behind and
3 handed to a 17-year-old boy on the evening before he and Soofi
4 took off and drove to Garland.

5 I want to take a minute and talk about ISIS. This
6 case is about a conspiracy to conduct an attack on U.S. soil
7 to promote ISIL. And you are going to hear that these men
8 were planning an attack on U.S. soil. I have talked about
9 Garland specifically. In this case you are going to hear
10 about different plans of attack and the fact that the
11 defendant and his co-defendants finally settled on Garland.

12 The defendant and his co-conspirators were followers
13 of ISIL. And you're going to hear a lot of information about
14 it, but I want to give you a quick snapshot.

15 ISIL is an organization that has been around for
16 years, a few years. Back in 2010 they started to be led by a
17 man by the name of Abu Bakr al-Baghdadi. He is pictured here.
18 Abu Bakr al-Baghdadi in the summer of 2014, on June 29th of
19 2014, stepped forward and announced himself to be the "Caliph"
20 or the "Khalifa." And what that is is the commander of the
21 faithful, the commander of all Muslims.

22 It's a unique concept to ISIS, because other
23 terrorist organizations, al-Qa'ida included, do not believe
24 that presently there is a Khalifa. And they certainly don't
25 believe that Abu Bakr al-Baghdadi is the Khalifa, presently

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1 the commander or the leader of all Muslims. It's a belief
2 specific to the Islamic State.

3 You are going to hear about their agenda. Their
4 commitment to purifying the world by murdering nonbelievers.

5 Over the past couple of years ISIS has seized up
6 territory in Iraq and Syria, territory greater in size right
7 now than the United Kingdom and they are purging, destroying,
8 killing nonbelievers.

9 The Islamic State believes that they are awaiting the
10 end of times, a battle to end all battles that's going to
11 happen in a place called Dabiq, Syria, where they are going to
12 fight the West, the disbelievers, become victorious, and then
13 that's going to usher in a period of Apocalypse.

14 The Islamic State is not al-Qa'ida but they do come
15 from a splinter group of al-Qa'ida. So, therefore, they have
16 some same, similar theories and roots. You're going to hear
17 that there are some within ISIS that hold Osama bin Laden,
18 obviously the commander of al-Qa'ida, to be an honorable
19 person, somebody that they respect.

20 Social media. The social media wing of ISIS is also
21 a unique facet of this particular terrorist organization.
22 They have created a propaganda machine that puts forward in an
23 unprecedented race, in a unique way, very high-quality videos
24 of death and killing.

25 They put out onto the Internet almost daily

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1 assassinations, killings of individual people. But unique to
2 the Islamic State, they also put forward videos of
3 assassinations of mass groups of people, men in black with the
4 flag of ISIL, killing, beheading, shooting, hurting prisoners,
5 people who are dressed in orange, which you will hear is a
6 play on the prisoners from Guantanamo Bay.

7 And another facet of this particular group, they
8 utilize Western recruiters or propagandists, English-speaking,
9 charismatic, articulate individuals who seek out homegrown
10 terrorists in the United States and other countries.

11 There has come to be an awareness since 2010 and 2011
12 amongst violent jihadi terrorist organizations that creating
13 another 9/11 is very challenging and it's easier to inspire
14 and recruit extremists who are already located within that
15 particular country.

16 Talking about Twitter for a moment. In this case,
17 ladies and gentlemen, you are going to see more tweets than
18 you can shake a stick at, but I want to give you a brief
19 preview of some of the ones that you will see.

20 The first. We talked about this a couple of minutes
21 ago. This is a tweet, a message sent out as the evidence will
22 show from Simpson. The image right there in that box is a
23 picture of Anwar al-Awlaki and the message:

24 "When will they ever learn? They are planning on
25 selecting the best picture drawn of Rasulullah (saws) in

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1 Texas."

2 That's the Muhammad. The Prophet.

3 One more. This tweet was sent out from Simpson just
4 minutes before; sixteen minutes before the attack in Garland.

5 Again, another picture of Anwar al-Awlaki.

6 "Shariah is Light."

7 "The bro with me and myself have given bay'ah to
8 Amirul Mu'mineen. May Allah accept us as mujahideen. Make
9 dua."

10 Meaning, the brother with me and myself have given
11 allegiance to the Admiral Mu'mineen.

12 That is Abu Bakr al-Baghdadi.

13 "May Allah accept us as mujahideen."

14 Or jihadists.

15 You are going to see other hard evidence in this
16 case. We talked earlier about the weapons that the
17 defendants, co-conspirators brought. You are going to hear
18 evidence about how that weapon, top row on the right with the
19 36 next to it, the AK-47 pistol grip, was the weapon the
20 defendant purchased for Simpson.

21 And then on the bottom in the middle with the 34, the
22 Elk River AK-47 was the weapon -- 74 -- was the weapon that
23 the defendant purchased for his other co-conspirator Nadir.

24 You will also hear evidence that some of the
25 ammunition that was used in the Garland attack was purchased

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1 with the defendant and Simpson together. It was found at the
2 scene. And a month after the attack, some of the same
3 ammunition was also found in a safe in the defendant's closet
4 in his bedroom.

5 You will hear FBI experts testify in this case from
6 the lab in Quantico and they will testify about forensic
7 analysis that was conducted on the shell casings found at the
8 Wittmann scene, that desert scene, the place where Sergio took
9 the defendant and he brought his co-conspirators to shoot.
10 You will hear how the shell casings there match shell casings
11 found at the scene in Garland, Texas.

12 The defendant helped train his co-conspirators with
13 the same weapons that his co-conspirators used in the Garland
14 attack. This case, ladies and gentlemen, ends in a shootout
15 in a parking lot. And you are going to hear from the heroic
16 law enforcement officers who were able to stave off the
17 attack.

18 You are going to hear from Bruce Joiner. Bruce
19 Joiner was the unarmed security guard who first encountered
20 the defendant's co-conspirators as they drove into that
21 parking lot in Garland, Texas. You are going to hear how he
22 looked as Simpson and Soofi got out of their car, got out with
23 long rifles in their hands.

24 And then he looked at Simpson, the passenger, and he
25 was smiling. And as he looked at his smile, he thought that

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1 it must be a joke. And then he heard the shots. As he heard
2 the shots, he saw the passenger and the driver move to the
3 back of the car that they came in and Joiner instinctively
4 dove. He dove behind a tree. With the intensity of the
5 moment, he didn't even realize that he had been shot.

6 You will also hear from Officer Stevens. Officer
7 Stevens who, in using his service pistol, was able to take
8 down Simpson and Soofi who were armed with semi-automatic
9 weapons and other weapons. You see here in this picture the
10 car and you see Simpson and Soofi. You also see the Elk River
11 drum magazine, the Elk River rifle that the defendant bought
12 for Soofi and you see that AK-74 that the defendant bought for
13 Simpson.

14 Shortly after the attack, the Islamic State claimed
15 responsibility. "The two brothers attained shahdah in Texas.
16 O Kuffar know that death is better than living humiliated.
17 Allahu Akbar. Hash tag. Garland shooting."

18 The defendant is charged with five crimes and I want
19 to take a minute and walk through them.

20 Count 1 and Count 2 relate to the same type of
21 offense. It's the interstate transportation of weapons with
22 the intent to commit a felony.

23 It's a crime to take weapons across state lines with
24 the intent to commit a felony. The government will prove that
25 Simpson and Soofi carried their weapons from Phoenix to

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1 Garland, Texas, in order to murder people in Garland and that
2 when they left, they had the plan to do just that. And that
3 the defendant knew that Simpson and Soofi had that plan and he
4 agreed to help them carry it out.

5 Count 1 relates to the agreement.

6 Count 2 is the act of aiding his co-conspirators
7 before they left in their plan of transporting these firearms
8 with the intent to commit a felony.

9 Count 3. The defendant is charged with material
10 false statements. Lies to the FBI.

11 You will see in the count it lists five lies and
12 we'll go through them one by one.

13 The first: That the defendant did not go shooting in
14 the desert with Simpson and Soofi before May 3rd of 2015.

15 A second lie: Before May 3rd of 2015, neither
16 Simpson nor Soofi fired the weapons they used in connection
17 with the attack in Garland, Texas.

18 Third lie: Simpson and Soofi did not ask him, the
19 defendant, to participate in an attack of any kind on or
20 before May 3rd of 2015.

21 Fourth: That the defendant did not know in advance
22 that Simpson and Soofi planned to conduct an attack in
23 Garland, Texas.

24 And the fifth lie: That the defendant did not know
25 that the Muhammad Art Exhibit and Contest that was to take

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1 place in Garland, Texas, on or about May 3rd of 2015, that he
2 didn't know about it until after it occurred.

3 That's the fifth lie.

4 Ladies and gentlemen, in this case you only need to
5 all agree on one lie. Certainly, the evidence will show, all
6 five, but in the jury deliberation room just need to find and
7 agree upon one.

8 Fourth charge. The defendant is charged in Count 4
9 with being a prohibited possessor in possession of a firearm.

10 The government will prove to you that the defendant
11 was convicted of a felony. That he -- after he was convicted
12 he was found in possession of a firearm and that weapon at
13 some point had traveled from one state to another.

14 Last, Count 5. The defendant is charged with a
15 conspiracy to materially support the Islamic State. The
16 defendant helped Simpson and Soofi. The defendant knew that
17 Simpson and Soofi were followers, supporters of ISIS, and he
18 agreed to help them carry out an attack in support of ISIS.

19 The crime is the agreement, not the act of the
20 attack. The defendant bought Simpson and Soofi weapons. The
21 defendant trained them with their weapons. The defendant
22 taught Simpson and Soofi how to break them down, clean them,
23 lubricate them, and reassemble them. And the defendant
24 motivated Simpson and Soofi to make the attack.

25 Ladies and gentlemen, I'm going to end where I began.

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1 The defendant was the third man of a team set on mass murder.
2 Each had their role. Two were killed and one remains.

3 After the evidence has come from that witness stand,
4 we will stand before you again and ask you to find the
5 defendant guilty as charged.

6 Thank you.

7 THE COURT: Thank you, Ms. Brook.

8 Ladies and gentlemen, we will take our afternoon
9 break. We will reconvene in 20 minutes at 2:35.

10 You are reminded of the admonition not to discuss the
11 case among yourselves or with anyone else.

12 You are not to form any conclusions about the case
13 until you have heard all the evidence and begun your
14 deliberations.

15 Court is in recess for 20 minutes.

16 (Recess taken at 2:13 p.m.; resumed at 2:38 p.m.)

17 THE COURT: Thank you, ladies and gentlemen.

18 Please sit down. The record will show the presence
19 of the jury, counsel, and the defendant.

20 Mr. Maynard, you may make your opening statement.

21 MR. MAYNARD: Thank you, Your Honor.

22 Good afternoon, Ladies and Gentlemen of the Jury.

23 I want to introduce you to Mr. Abdul Malik Abdul
24 Kareem. Born in Philadelphia he was Decarus Thomas. His
25 father was a police officer. This is the man that the

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1 government has accused of all of these heinous crimes.

2 Go ahead and sit down.

3 On May 1st of 2015 he had a cousin that was -- or a
4 nephew that was flying back in here from Philadelphia. His
5 nephew had worked with him before. He owned a moving company.
6 His nephew was coming back to have a job with him.

7 His other nephew that actually lived out here in
8 Phoenix went to pick up his brother at the airport and about
9 one o'clock in the afternoon they went to the mosque, one of
10 the mosques here in Phoenix, and they prayed. And on Fridays
11 for Muslims is like Sundays for Christians. It's the day of
12 prayer for maybe an hour-and-a-half.

13 Afterwards, his nephew was going back to his house to
14 live with him because his nephew was coming out here to work
15 with him. His nephew had been in Philadelphia since I believe
16 it was November of 2011. His nephew used to work with him
17 before, but his problem was his nephew was a very devout
18 Muslim. And at that time -- this was Decarus Thomas -- and he
19 would not let his nephew kneel during the middle of the day to
20 pray when they were working, so his nephew got mad and had
21 gone home.

22 In the meantime in 2013, Decarus converted to Islam.
23 He changed his name to Abdul Malik Abdul Kareem. So the
24 nephew is coming back to live with him and work with him.

25 They see each other at the mosque. They also see a

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1 number of other people. They see Simpson and they see Soofi
2 there. And Malik invites a lot of people over that night for
3 dinner. He's going to cook. In fact, he's going to cook a
4 goat.

5 But as the day goes on, he has a medical appointment
6 that he has to go to and he realizes he can't buy the meat and
7 get everything prepared for that night, so he calls Simpson,
8 texts other people, and tells them I'm not going to have the
9 dinner until tomorrow night, which is going to be May 2nd.

10 This is the person that is the bank roller, trainer,
11 and motivator, according to the government.

12 You need to understand that Phoenix, Arizona, to
13 Garland, Texas, is over a thousand miles.

14 The next day he prepares the food -- actually
15 prepares it that night. He has a number of people that come
16 over to have dinner and lunch with him. Simpson sends him a
17 text and you are going to see the text and it says: I'm sorry
18 I'm not going to be able to make it. And you're going to have
19 to decide whether or not this was all a ruse; Simpson saying
20 "I can't make it."

21 On May 3rd in the evening, the government is exactly
22 right as to what happens with Simpson and Soofi. They
23 initiate some sort of an attack in Garland, Texas, at this
24 Muhammad Drawing Contest.

25 What you're going to hear from not only my client, he

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1 said this over and over to the FBI, but you're also going to
2 hear it from people in the Muslim Community here. This was
3 not a well-known event. There were not 200 people at this
4 Muslim drawing contest, this Muhammad drawing contest, there
5 were 160. It got notoriety after this event occurred. Okay.

6 Malik is sitting in a Red Lobster restaurant that
7 night with his nephew and he's having a good time. He's
8 enjoying himself. They have ordered food. They're sitting
9 down and a phone call comes in from his other nephew saying
10 that Simpson' brother has called saying -- because he's being
11 contacted by somebody from the press and they want to know:

12 Do you know whether your brother Elton Simpson is
13 here in Phoenix? Is he in Texas? Is he involved in something
14 in Texas? What's going on?

15 And that information is conveyed to Malik.

16 The reaction that changes on his face that you will
17 hear from his nephew is shock. He has no idea what has gone
18 on. They pack up -- they get the restaurant to pack up their
19 food. They take it and they leave.

20 And his nephew has told him that he has gone by
21 Simpson' house and that there are FBI there and there are
22 agents and there's police officers. So he drives over there
23 to see what's going on. And then he drives to the house of
24 another friend that's good friends with Simpson to see if he
25 knows what's going on.

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1 And that friend and Malik and his nephew drive back
2 to Simpson's house. In fact, they see some tarps outside.
3 They think Simpson has been involved in something and that
4 maybe he's dead and he's lying on the ground out there. They
5 don't know anything about Garland, Texas.

6 Later that evening he goes to Simpson's father's
7 house trying to find out what's happened.

8 Now, through the course of the next couple of weeks
9 and starting the next day, the FBI has a very large
10 investigation going on and they start interviewing lots of
11 people who knew Simpson and Soofi at the mosque that they
12 attended.

13 They interview people that they worked with. They
14 interviewed anybody around there. You're going to hear from
15 the government. They'll talk about how they went into
16 Simpson's and Soofi's apartment and what they found there.

17 And that's going to be really important to look at
18 what was on Simpson and Soofi's computers, their cell phones,
19 in their apartment, because then they call Malik, the FBI
20 does, and they ask him to come into the FBI office for an
21 interview and he comes involuntarily and he's interviewed with
22 them.

23 And that's the interview that they have now charged
24 him with lying to the FBI. And I would love to show you the
25 videotape of the interview because the FBI had surreptitiously

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1 put in a camera and a recorder so that they could record it so
2 you would know exactly what he said.

3 But somehow or another it either didn't get turned on
4 or got destroyed but we don't have that videotape. All we
5 have is the word of the two FBI agents that were in there who
6 thought that they were videotaping this.

7 Well, and then there was a camera up in the corner, a
8 security camera. And as the judge will tell you, one of the
9 things you do is when you listen to witnesses, you not only
10 listen to what they say, but you watch them. And you tell --
11 are they telling the truth? What's their body language like?

12 And I would love to show you that video of the
13 interview with the FBI with Malik but the FBI destroyed it.
14 Said: I don't have it.

15 Now, I do have an interview that takes place on June
16 10th when they finally arrest him because he doesn't lawyer-up
17 at the time. He sits down and tells them what he knows. And
18 you'll see that and you'll hear that.

19 But let's go back a little bit and talk about why
20 this all came about. My client who the government says is the
21 bank roller, the trainer, the motivator, apparently the leader
22 of this thing, adopts Islam in 2013.

23 Elton Simpson, he became a Muslim in 2004. You're
24 going to hear evidence that starting in about 2005, 2006, the
25 FBI thought that Simpson was becoming radicalized. And over

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1 the course of the next four or five years they paid \$140,000
2 to a Somali informant to tape Simpson's conversations. Took
3 four or five years for them to do this. And then they finally
4 bring charges against him in 2009 and he goes to trial in 2010
5 and the judge decides that he's lied to the FBI but not about
6 terrorism.

7 Okay. So Simpson then is on probation. Malik
8 doesn't meet Simpson until 2011 and doesn't know anything
9 about this trial that's gone on. He's not a practicing Muslim
10 at the time. He's dabbling in it. He's looking at it. He's
11 going to the mosque on occasion. But he hasn't converted. He
12 hasn't changed his name.

13 Now, he moves in -- and the government just told you
14 in their opening -- he moved in with Simpson and another guy.
15 Well, he moved in with Simpson, another fellow, Abubaker
16 Ahmed, and there was a fourth individual that was there.

17 And the government does a raid on this house in 2012
18 because they think that Abubaker Ahmed is making false
19 certificates for the ASU graduation certificates.

20 But I believe it was a pretext because I think the
21 evidence is going to show they went in and they got
22 everybody's computer about this and they got my client's
23 computer and when they interviewed him he said, yes, this is
24 my computer. The evidence is there are other people in this
25 house that use my computer. And there's a flash drive in that

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1 computer. He said it's not mine. I don't know whose it is
2 but that flash drive is not mine.

3 And there is a great deal of radical material on that
4 flash drive and that's going to be one of the questions that
5 you're going to be asked in this case is who owned the flash
6 drive and was it his? Or is this the kind of material that
7 was found all the time on Simpson's stuff?

8 Now, the government just told you in the opening that
9 the evidence would show that they had a falling out at that
10 point and that they moved apart in 2012. It didn't happen.
11 They moved to another apartment in 2012. He continued to live
12 with Simpson. Simpson was his friend. Was his buddy.

13 And they lived together until the summer of 2013.
14 Now, in the summer of 2013, he and Simpson did have a falling
15 out and he believed that Simpson had put some sort of a
16 tracking device on his car or something and so he told
17 Simpson, look, I don't want to be around you. I don't want to
18 be involved in this kind of stuff. You've got to leave. And
19 Simpson left and they never lived together after the summer of
20 2013.

21 Now, this person who is alleged to be this
22 mastermind, bank roller of this terrorist plot, who does he
23 now start living with? Well, he brings in some young Hispanic
24 boys that worked with him on his moving company. He brings in
25 a Vietnam war vet who's a Christian named Billy Elliott.

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1 Billy Elliott is going to come in here and testify.

2 I'm going to tell you right now you're going to have
3 a hard time listening to Billy Elliott because he only has
4 half a lip. He got it bitten off at some point. And they're
5 going to testify about what he was like from 2013 to 2015.

6 They lived together -- he and Elliott lived together
7 through that whole period of time -- and they're going to tell
8 you there's no radicalization things going on. He's not
9 watching the kinds of things the government argues that he's
10 watching.

11 There's no question that you're going to hear some
12 evidence from some people that are going to say that he was
13 doing radical things. You're going to hear an individual say
14 that he asked him to build a pipe bomb.

15 What I tell you to do is just wait till you hear the
16 evidence and keep an open mind till you hear the
17 cross-examination. You need to look at the motivation behind
18 what these people say. You need to look at the timing of what
19 they say. You need to look to see if they're really telling
20 the truth.

21 Now, the government showed you pictures of Anwar
22 al-Awlaki, a picture that Simpson had on his Twitter page.

23 There will be evidence that my client listened to
24 some CDs of Anwar al-Awlaki. But there will also be evidence
25 that shows that Anwar al-Awlaki was an American-born cleric.

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1 His father was an engineer. He was born while his dad was in
2 school over here. And he was an Imam in California for a
3 while and he was an Imam in Falls Church, Virginia, and he
4 made a lot of videos that were about the Prophet and the
5 Qur'an and those types of issues.

6 And you are going to hear evidence from a number of
7 Muslims that the large percentage of the American Muslim
8 population listened to those CDs. There's no question that
9 later on al-Awlaki became radicalized and he did produce CDs
10 later on that are about terrorism and radicalization. And
11 he's the first American that was ever killed and authorized to
12 be killed in a drone strike by the United States.

13 But the DVDs and the CDs that my client had are not
14 those. It's the ones that were at the very beginning in his
15 non-radicalized period.

16 In 2014 my client again begins to get friendly again
17 with Simpson. Let me make it clear. Did he go out into the
18 desert shooting with Simpson? Yes. On two occasions. All
19 right. Two occasions. Both times were with a man by the name
20 of Sergio Martinez.

21 He took Simpson with him to Sergio Martinez's house
22 for a birthday celebration. There are numerous members of
23 Sergio Martinez's family there. It's Sergio Martinez's
24 mother's house. Everybody is out shooting guns in the
25 backyard. There is nobody doing any training on how to shoot

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1 a gun. He's not training anybody. He's not providing the
2 guns. Simpson happens to be there at a birthday party.

3 And I hope the government brings in Sergio Martinez.
4 If not, I will, and you'll hear that testimony.

5 Now, in January of 2015, he calls Martinez again and
6 says, look, I've got a couple of friends that want to shoot
7 guns. Can we come out and shoot? And Martinez says, yes.

8 So they go out there to shoot at Martinez's house
9 again. And Martinez gets his two boys who I think are 6 and
10 8, puts them in the car, and they all go out into the desert
11 shooting.

12 And you're going to have to decide whether or not
13 this is somebody training radicals to do an attack in January
14 of 2015, if they would call their Christian/Hispanic friend
15 with his two children and go out shooting.

16 And as the government just told you a few minutes
17 ago, he's laughing. He's laughing with Martinez because Soofi
18 and Simpson each have AK-47s. He's never shot one before.
19 Neither has Martinez. And they're laughing because these guys
20 don't know what they're doing. Martinez has got -- he's not
21 training them. This is an over-active imagination by the
22 government.

23 What happens after this is that he has conversations
24 with Simpson and Soofi but they're not living together. He
25 has a business to run. He has homeless people that are living

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1 at his apartment with children there. This very alleged
2 devout Muslim who's going to do these terrible things has all
3 of these homeless Christian folks along with Billy Elliott and
4 others living with him.

5 Now, the government has told you just a few moments
6 ago that there are 380 contacts over the phone between the two
7 of them. There may have been 380 calls but there weren't 380
8 connections.

9 Again, you're going to hear an awful lot of evidence
10 both from the government and from the defense on the number of
11 phone calls that were done, how many of them were actually
12 connected, and you're going to get a lot of information about
13 texts and text messages that were sent.

14 Those text messages are really important because
15 social media in this case is going to be very, very important.
16 The government has some witnesses that are going to come in
17 and testify that my client would go out every Friday with
18 Simpson and Soofi shooting in the desert. It didn't happen.

19 You're going to look at these telephone records to
20 see where they were traveling to to see if Simpson and Soofi
21 were even with my client, with Malik. Did they go into the
22 desert? Did they ever go into the desert where these
23 individuals said they were going shooting on a Friday, the
24 holy day, the Sabbath day for the Islamic religion?

25 There are going to be some children that testify in

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1 this case. And let me tell you ahead of time, watching
2 children testify about things can be very difficult.

3 I believe that the really difficult one in this case
4 will be Nadir Soofi's son. He was interviewed by the FBI.
5 He's been videotaped. I'm assuming he is going to come in and
6 testify. It's hard watching an 8 or 9-year-old son testify
7 about his dead father, especially when he knew exactly what
8 his father was going to do. And his father was teaching him
9 at that age to shoot a gun.

10 You're not going to hear any evidence from Nadir
11 Soofi that my client was involved whatsoever or from Nadir
12 Soofi's son. But that son is going to implicate his father.
13 He's going to talk about Simpson. And he's going to talk
14 about Ali.

15 And you heard the government tell you about what Ali
16 is going to come in here and testify. It will be interesting
17 to see what Mr. Ali says -- or Ali Soofi says -- because Ali
18 Soofi's testimony has changed dramatically over this. He is
19 interviewed on May 4th, the day after his brother is killed.
20 As days go on his testimony just starts changing.

21 Why? It's going to be for you to decide after you
22 hear cross-examination. You look at time lines and you look
23 at the evidence in this case.

24 Did he know more than he knew and he's letting on?
25 He lived with them. He lived with Soofi and Simpson. And

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1 there's no question they carried out a terrorist act.

2 You are not going to hear anything from the defense
3 that this was not an act of terrorism by Soofi and by Simpson.

4 But one of the other things the government didn't
5 mention to you is that hours -- hours before the attack
6 occurred in Garland, Texas, the FBI is sending e-mails to
7 Garland, Texas, with Simpson's picture on it. Because somehow
8 or another, they believe that he may be involved in an attack
9 up there. But it appears that somebody at the government
10 forgot to open the e-mail so they didn't distribute it to
11 everybody there.

12 Are some people embarrassed about what happened? I
13 think so. Are they trying to blame somebody else? You'll
14 decide.

15 This is a case where it is really guilt by
16 association. He's there. He went shooting with them. He did
17 go to the mosque that they went to. He was a friend of
18 Simpson's.

19 But you need to look at the evidence in this case,
20 and particularly, the electronic evidence. Not just what
21 people say, but when we look at electronic evidence, when we
22 go in and look at the computers, look at Simpson's computer,
23 what did he have on it? Lots and lots and lots of radicalized
24 material, things that promoted terrorism.

25 When we look at Soofi's cell phones and his computer,

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1 the one that he shared with Simpson, lots and lots of
2 radicalized information and terrorist information.

3 When you look at Malik's computer and his cell
4 phones, you're not going to find that. You might find one or
5 two things, but nothing. They look completely different.

6 Now, the government has just now told you that he's
7 basically the mastermind. He's the money man. He's the
8 trainer. He's the motivator.

9 After you have listened to all of this evidence, I
10 believe that you'll come to the conclusion that my client was
11 friends. He had no idea they were going to do this. He had
12 no idea that they were going to Dallas, Texas.

13 Let me talk briefly, just briefly, about the
14 different charges because Count 1 and 2 and Counts 5 deal with
15 that trip to Garland, Texas, where that act of terrorism took
16 place. Okay.

17 The count that deals with whether he lied to the FBI
18 or not, you're going to have to make that decision. I wish I
19 had that video to show you. I wish we knew exactly what he
20 said. He certainly has always denied that he knew they were
21 going to Garland, Texas, or that they asked him to go to
22 Garland, Texas, or he knew they were going to do anything like
23 that.

24 When it comes to the issue of whether or not he is a
25 felon in possession, the evidence is going to be clear. All

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1 right. He doesn't have one felony conviction. He has two.

2 Back over ten years ago in about a four-year period
3 he got two felony DUIs. All right. Those are the felonies
4 that he had. He should not have possessed a gun. And the
5 evidence is going to show that he carried a gun all the time.
6 He had a .38 and he had a 9 millimeter.

7 It's going to be clear. And he carried that .38
8 because he had a moving business and he would go and there
9 were times when he had been threatened.

10 Should he have carried it? No. Did he? Yes.

11 At the close of this case all I'm asking you to do
12 now is keep an open mind. Listen to the examinations. Pay
13 careful attention to the electronic information in here, the
14 hard evidence that we can see. Pay careful attention to the
15 cross-examinations and look at people's credibility and
16 whether they're telling the truth.

17 And I suggest to you that a large number of the
18 government's witnesses are not telling the truth.

19 Thank you.

20 THE COURT: Thank you, Mr. Maynard.

21 The government may call its first witness.

22 (End of Excerpt of Proceedings.)

23 * * *

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C E R T I F I C A T E

I, ELIZABETH A. LEMKE, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the foregoing pages constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction and control.

DATED at Phoenix, Arizona, this 5th day of March, 2016.

s/Elizabeth A. Lemke
ELIZABETH A. LEMKE, RDR, CRR, CPE